



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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Public Hearing Summary Document

March 2, 2004 at 5 PM

**URI Narragansett Bay Campus
Corless Auditorium**

- 1) Amend current lobster commercial regulations to limit the trap tags allowed on a pot at any one time;
- 2) Amend current lobster commercial regulations to increase the circular escape vent size;
- 3) Modify possession limits, seasons, and quota allocations for the commercial tautog fishery;
- 4) Adopt a weekly landing permit program for the commercial summer flounder fishery during the winter 1 sub period (enacted through emergency regulations on 1/5/04);
- 5) Adopt a weekly landing permit program for the spiny dogfish fishery (enacted through emergency regulations on 10/24/03);
- 6) Modify season, bag limit, and minimum size for the recreational scup fishery;
- 7) Modify season, bag limit, and minimum size for the recreational summer flounder fishery;
- 8) Amend commercial floating fish trap scup regulations

The public has been afforded the opportunity to comment on the proposals contained in this document at the public hearing scheduled for Tuesday, March 2, 2004 (5 PM) at the URI Narragansett Bay Campus, Corless Auditorium or by submitting written comments to the Division of Fish and Wildlife, 3 Fort Wetherill Road, Jamestown, RI 02809 no later than 12:00 p.m. on March 2, 2004. Underlined and bold font indicates new language and crossed out font denotes existing language proposed for elimination.

1) Amend current lobster commercial regulations to limit the trap tags allowed on a pot at any one time

15.14.1-11(e) – Only lobster trap tags for the current fishing year and the immediate previous fishing year shall be allowed to remain attached to each lobster trap. **Any fisher who possesses a trap which does not comply with the provisions of this section shall be fined not more than ten dollars (\$10) for each non-complying trap.**

2) Amend current lobster commercial regulations to increase the circular escape vent size

15.13.1-2 Two circular escape vents, each with an unobstructed opening not less than ~~2-1/2 inches (63.5 mm)~~ **2-5/8 inches (66.68 mm)** in diameter; or

3) Modify possession limits, seasons, and quota allocations for the commercial tautog fishery

7.9 Tautog (Blackfish) -- No person shall take, possess, sell, possess for sale, or offer for sale any tautog measuring less than sixteen (16) inches total length whether caught within the jurisdiction of this State or otherwise.

7.9.1 Recreational -- Except as provided in Part II, no person may possess more than three (3) tautog from May 1 through October 14, annually, and no more than ten (10) tautog from October 15 through December 31, annually. Compliance aboard vessels will be determined by dividing the number of fish onboard a vessel by the number of recreational fishermen onboard said vessel.

7.9.2 Commercial --The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the Atlantic States Marine Fisheries Commission. The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the DEM and the RIGL Title 20. The quota shall only be available during the following seasons:

- (a) April 15 – May 31: 1/3 of the annual quota established in this part shall be available from April 15 through May 31, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day. ~~[Effective May 16, 2003 at 12:01 AM the commercial tautog fishery will be closed until the next sub-period begins on August 1, 2003.]~~
- (b) August 1 – September 15: 1/3 of the annual quota established in this part shall be available from August 1 – September 15, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day
- (c) October 15 – December 15: 1/3 of the annual quota established in this part shall be available from October 15 – December 15, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day.
- (d) Within each period the allocation may be harvested until it is exhausted. Any unused quota not harvested during a sub-period will be carried forward into the next period and any over-harvest will be deducted equally from all periods in the next calendar year. No licensed commercial fishermen may possess more than ten (10) tautog in any calendar day. During a closure of the R.I. tautog fishery a federally permitted vessel fishing in the Exclusive Economic Zone (EEZ), may traverse Rhode Island waters for the purpose of landing tautog in another state, provided their nets are stowed in accordance with Section 10.10 of these regulations.

PROPOSALS

Status Quo:

Regulations same as above

Division of Fish and Wildlife Proposal:

	<u>Season</u>	<u>Quota Allocation</u>	<u>Bag Limit</u>
<u>Commercial</u>	<u>July 1 – Dec 31 or until quota is caught</u>	<u>100%</u>	<u>10</u>
<u>Recreational</u>	<u>July 1 – Oct 14</u>	<u>NA</u>	<u>3</u>
	<u>Oct 15- Dec 31</u>	<u>NA</u>	<u>10</u>

Advisory Panel Preferred Proposal:

The commercial tautog fishery is closed until July 1st of each year north of a line starting from Allen's Harbor and proceeding to the Prudence Island Ferry Dock through to the West Span of the Mount Hope Bridge and then in the Sakonnet River, High Hill to Sandy Point. Otherwise the regulations will be as follows:

	<u>SEASON</u>	<u>QUOTA ALLOCATION</u>	<u>BAG LIMIT</u>
<u>COMMERCIAL</u>	<u>APR 15 – MAY 31</u>	<u>1/3</u>	<u>10</u>
	<u>AUG 1 – SEPT 15</u>	<u>1/3</u>	
	<u>OCT 15 – DEC 15</u>	<u>1/3</u>	
<u>RECREATIONAL</u>	<u>MAY 1 – OCT 14</u>	<u>NA</u>	<u>3</u>
	<u>OCT 15 – DEC 31</u>	<u>NA</u>	<u>10</u>

Advisory Panel Proposal:

The commercial tautog fishery is closed until July 1st north of a line following the Jamestown and Newport Bridges and then in the Sakonnet River, Flint Point to Church Point. Otherwise the regulations will be as follows:

	<u>SEASON</u>	<u>QUOTA ALLOCATION</u>	<u>BAG LIMIT</u>
<u>COMMERCIAL</u>	<u>APR 15 – MAY 31</u>	<u>1/3</u>	<u>10</u>
	<u>AUG 1 – SEPT 15</u>	<u>1/3</u>	
	<u>OCT 15 – DEC 15</u>	<u>1/3</u>	
<u>RECREATIONAL</u>	<u>MAY 1 – OCT 14</u>	<u>NA</u>	<u>3</u>
	<u>OCT 15 – DEC 31</u>	<u>NA</u>	<u>10</u>

4) Adopt a weekly landing permit program for the commercial summer flounder fishery during the winter 1 sub period (enacted through emergency regulations on 1/5/04)

7.7.1 Summer flounder Sub-periods and Possession Limits

7.7.1-1 Winter Sub-Period: January 1 - April 30 annually.

Target allocation - 54% of the annual quota established in Section 7.7, unless modified pursuant to this part. The DFW will adjust the possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.

- a. Any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to enter into an agreement with the Division of Fish and Wildlife to participate in the weekly trip limit program for summer flounder during the Winter I period (January 1 – April 30) or until the program is terminated as provided in this part. Any applicant vessel deemed to satisfy the agreement shall be issued a permit and is thereby authorized to land summer flounder in any amount between 0 and 3,000 pounds in any calendar day so long as the total landed by that vessel does not exceed 3,000 pounds in any calendar week. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week begins on Sunday at 12:00 AM and ends on Saturday at 11:59 PM of each week. When 80% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the program will terminate and the possession limit per vessel will be 700 pounds per calendar day.
- b. The commercial possession limit of summer flounder for vessels that are not permitted to participate in the weekly trip limit program shall be 700 pounds per calendar day for vessels which possess a valid state of Rhode Island Summer Flounder Exemption Certificate. It shall be unlawful for any person operating a vessel that is not permitted to participate in the weekly trip limit program to land more than 700 pounds of summer flounder in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day.
- c. The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 200 pounds per day
- d. A vessel shall be considered eligible to participate in the weekly trip limit program for summer flounder by demonstrating to the Division that it satisfies each of the following criterion:
- (1) The vessel if harvesting summer flounder from federal waters possesses a valid federal summer flounder moratorium permit and possesses a valid state of Rhode Island summer flounder exemption certificate, or, if harvesting exclusively in State waters, the vessel's operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate; and
 - (2) The vessel shall be operated by a person who possesses a valid multipurpose, principal effort, or landing license issued by the State of Rhode Island to land

summer flounder for commercial purposes.

e. Participants in the weekly trip limit program for summer flounder agreement shall satisfy the following requirements:

- (1) A vessel shall be enrolled from the date the participant enters the program until the end of the winter I sub period or until the participant terminates enrollment.
- (2) Permits shall be available from the Division of Fish and Wildlife (3 Fort Wetherill Road, Jamestown, RI 02835) on Mondays and Tuesdays, 8:30 AM until 4:00 PM for the entire winter I sub period.
- (3) No vessel shall possess simultaneously more than one weekly trip limit permit.
- (4) Permits must be onboard the permitted vessel at all times.
- (5) The operator of any vessel permitted for the weekly trip limit program shall report the following information no later than 24 hours following each landing: weight of summer flounder landed; weekly trip limit permit number; and date landed.
- (6) The operator of any vessel permitted for the weekly trip limit program who did not land summer flounder in any calendar week shall report a negative report within 24 hours after the end of the calendar week.
- (7) The information referenced in sections (5) and (6) of this part shall be documented on forms provided by the Division of Fish and Wildlife or in a Vessel Trip Report logbook at the time summer flounder are landed in Rhode Island. This information shall be reported via the Division of Fish and Wildlife interactive voice recording (IVR) system and by submitting the State's copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife to the Division of Fish and Wildlife (3 Fort Wetherill Road, Jamestown, RI 02835) within one week after landing, including the name and address of the dealer where the summer flounder were landed.
- (8) Non-compliance with the provisions of these regulations or the permit agreement shall subject the owner and or operator to revocation of the permit and the imposition of a penalty pursuant to part 3.3 (RIGL 20-3-3) as well as ineligibility to reapply for issuance of a permit for the subject vessel for the remainder of the Winter I period.
- (9) If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement find sufficient evidence that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the

requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the revocation of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) as well as the ineligibility to reapply for issuance of a permit for the subject vessel for the remainder of the Winter I period.

(a) Any person who seeks an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.

(b) Any person who seeks an adjudicatory hearing relative to license and permits appeals arising under these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.

5) Adopt a weekly landing permit program for the spiny dogfish fishery (enacted through emergency regulations on 10/24/03)

7.15 Spiny dogfish

7.15.1 Commercial Season and Possession Limits – The commercial season shall extend from May 1 until April 30. ~~It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 600 pounds of spiny dogfish during the period May 1 through October 31 and 300 pounds of spiny dogfish during the period November 1 through April 30.~~ When notified that the quota in any given period has been harvested, as determined by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission, the Division of Fish and Wildlife shall file a notice with the Office of the Secretary of State prohibiting the commercial landings, harvest and possession of spiny dogfish in state waters for the remainder of the designated period and publish a news release announcing the closure in a newspaper of daily circulation throughout the State.

7.15.2 Current Commercial Possession Limit – Effective October 26, January 10, 2003 at 12:01 AM the commercial landings, harvest, and possession of spiny dogfish shall comply with the following regulations as set forth below:

- a. Any vessel which possesses a valid Rhode Island commercial fishing license to harvest or land dogfish for commercial purposes in Rhode Island and harvesting

exclusively in State waters, may opt to enter into an agreement with the Division of Fish and Wildlife to participate in the weekly trip limit program for dogfish until the program is terminated as provided in this part. Any applicant vessel deemed to satisfy the agreement shall be issued a permit and is thereby authorized to land dogfish in any amount between 0 and 7,000 pounds per trip so long as the total landed by that vessel does not exceed 21,000 pounds in any calendar week. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week begins on Sunday at 12:00 AM and ends on Saturday at 11:59 PM of each week. When the dogfish quota has been harvested as determined by the Atlantic States Marine Fisheries Commission (ASMFC), the program will terminate.

- b. The commercial possession limit of dogfish for any vessel which possesses a valid Rhode Island commercial fishing license to harvest or land dogfish for commercial purposes in Rhode Island and harvesting exclusively in State waters, and are not permitted to, or elect not to, participate in the weekly trip limit program shall be 3,000 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to, or elects not to, participate in the weekly trip limit program to land more than 3,000 pounds of dogfish in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. When the dogfish quota has been harvested as determined by NMFS and/or ASMFC the dogfish fishery will close.
- c. A vessel shall be considered eligible to participate in the weekly trip limit program for dogfish by demonstrating to the Division of Fish and Wildlife that it satisfies each of the following criteria:

 - (3) The vessel must harvest dogfish exclusively in State waters and the vessel's operator must possess a valid license to harvest or land dogfish for commercial purposes in Rhode Island; and
 - (4) The vessel shall be operated by a person who possesses a valid multipurpose or principal effort finfish license issued by the State of Rhode Island to land dogfish for commercial purposes.
- d. Participants in the weekly trip limit program for dogfish agreement shall satisfy the following requirements:

 - (10) No vessel shall possess simultaneously more than one weekly trip limit permit.
 - (11) A valid Spiny Dogfish Permit and logbook as described below in part 7.15.2(d)(3) must be onboard the permitted vessel at all times.
 - (12) The operator of any vessel permitted for the weekly trip limit program shall report all landing information in either their Vessel Trip Report (VTR)

logbook or a Dogfish Weekly Landing Logbook, which will be provided upon request at the time of obtaining the permit. The logbook shall be turned in to the Division of Fish and Wildlife (3 Fort Wetherill Rd, Jamestown, RI 02835) within 48 hours of the operators receipt of a request for said logbook by a member of the Division of Fish and Wildlife or the Division of Law Enforcement, the operators election to terminate participation in the permit program, or by the closure of the fishery.

(13) Non-compliance with the provisions of these regulations or the permit agreement shall subject the owner and or operator to revocation of the permit and the imposition of a penalty pursuant to part 3.3 (RIGL 20-3-3) as well as ineligibility to reapply for issuance of a permit for the subject vessel for one (1) year.

(14) If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement find sufficient evidence that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the revocation of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) as well as the ineligibility to reapply for issuance of a permit for the subject vessel. The determination shall provide that the request for a hearing must be received in writing by the Clerk of the Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 no later than twenty (20) days following receipt of the determination.

6) Modify season, bag limit, and minimum size for the recreational scup fishery

In January of 2004,2003, the Atlantic States Marine Fisheries Commission approved Addendum XI to the scup fishery management plan requiring New York, Connecticut, Rhode Island, and Massachusetts to develop regulations to reduce landings by 57% through a combination of size restrictions, bag limits, and seasonal closures.

The RI Marine Fisheries Council Scup Advisory Panel met on January 27, 2004 and recommended that the minimum authorized size for scup be increased from 10 inches to 11 inches, with a dual bag limit and the season be modified as follows (the portions bracketed by parentheses are still being revised):

- 1 – Open season from May 1 to August 28 at an (8-10) fish bag limit
- 2 – Open season from August 29 to [to be determined] at a 50 fish bag limit

Given that the final revisions to the Marine Recreational Statistics Survey and the Mid-Atlantic Fisheries Management Council's reduction tables, this option will be finalized when these tables become available.

7) Modify season, bag limit, and minimum size for the recreational summer flounder fishery

7.7.4 Summer flounder Recreational Regulations

7.7.4-1 Size and Possession – No person fishing recreationally shall possess a summer flounder less than seventeen and one-half inches (17.5") total length, ~~and .~~
~~No person fishing recreationally shall possess, per calendar day, more than five (5) summer flounder whether caught within the jurisdiction of this state or otherwise from May 1 through September 20.~~ No person fishing recreationally shall possess, per calendar day, more than one (1) summer flounder whether caught within the jurisdiction of this state or otherwise from September 21 through December 31. Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.

7.7.4-2 Season – The recreational season for summer flounder in Rhode Island waters is open from May 1 through ~~September 20~~ December 31. The season is closed from ~~September 24~~ January 1 through April 30. Possession of summer flounder taken from any waters of the state for recreational purposes during the closed season is prohibited.

8) Amend the commercial floating fish trap scup regulations

Option proposed by Scup Advisory Panel:

7.11.2-2 Summer –Fall Period (May – October) A state quota for scup will be established annually for the Summer-Fall period and shall be the most recent amount allocated to the State of Rhode Island by the Atlantic States Marine Fisheries Commission and/or the Secretary of the U.S. Department of Commerce and published in the Federal Register. The total quota for will be divided as follows:

FLOATING TRAPS licensed by the state of Rhode Island – Sixty percent (60%) of the Summer-Fall period quota will be allocated to the floating trap harvesting sector. The quota allocated to the floating trap sector will be available during the following sub-periods:

April 15 – May 31: During those years in which the Winter I federal coastwide scup quota allocation is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. Seventy-five percent (75%) of the scup which is allocated to the floating trap fishery for the entire year in question will be available for the sub-period from April 15 through May 31. The possession limit shall be 25,000 pounds per fish trap licensee per calendar day. Once eighty percent (80%) of the sub-period allocation is projected to be harvested by the Division, the possession limit shall be reduced to 10,000 pounds per fish trap licensee per calendar day.

May 1 – May 31: During those years in which the Winter I federal coastwide scup quota allocation has not been completely exhausted prior to April 15, the floating fish trap quota will be available on May 1. ~~Ninety percent (90%)~~ Seventy-five percent (75%) of the scup which is allocated to the floating trap fishery for the entire year in question will be available for the sub-period from May 1 through May 31. The possession limit shall be 25,000 pounds per fish trap licensee per calendar day. Once eighty percent (80%) of the sub-period allocation is projected to be harvested, by the Division, the possession limit shall be reduced to 10,000 pounds per fish trap licensee per calendar day.

June 1 – ~~August 31~~ June 30: Ten percent (10%) of the scup which is allocated to floating trap industry will be available for the sub-period from June 1 through ~~August 31~~ June 30. The possession limit ~~will~~ shall be 2,000 pounds per fish trap licensee per calendar day. If 80% of the May 1 (or April 15) – May 31 sub-period allocation is not harvested by May 31, the possession limit on June 1 shall be 25,000 pounds per fish trap licensee per calendar day until 80% of the May allocation is projected by the Division to be harvested, at such time the possession limit shall be reduced to 10,000 pounds per fish trap licensee per calendar day. Once ~~ninety percent (90%)~~ seventy-five (75%) of the entire quota is projected to be harvested by the Division, the possession limit shall be 2,000 pounds per fish trap licensee per calendar day.

July 1 – July 31: Ten percent (10%) of the scup which is allocated to the floating trap industry will be available for the sub-period from July 1 through July 31. The possession limit shall be 2,000 pounds per fish trap licensee per calendar day.

August 1 – August 31: Five percent (5%) of the scup which is allocated to the floating trap industry will be available for the sub-period from August 1 through August 30. The possession limit shall be 500 pounds per fish trap licensee per calendar day. Annually on August 1, ~~the~~ any unharvested portion of the floating fish trap quota in excess of the 5% allocated to this period shall be made available to all gear types.

Quota roll over alternative option proposed by Division of Fish and Wildlife:

Annually the Division of Fish and Wildlife, in consultation with the floating fish trap industry, will determine a date to make available the unharvested portion of the floating fish trap quota to all gear types.